

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3484 OF 2015

IN

FIRST APPEAL NO.1744 OF 2013

Shri Dhaniram Dagdusing Pardeshi.] ... Applicant

Versus

Shri Mahadev Bhargav Gangal]
 (Since Deceased) Through his Legal Heirs]
 and Representatives]
 Shri Mayuresh Mahadev Gangal & Ors.] ... Respondents

Mr. Nikhil Pujari i/b Mr. P. N. Joshi for Applicant.
 None for Respondents.

CORAM :- K. K. TATED &
SARANG V. KOTWAL, JJ.
DATE :- 18 JANUARY, 2018

P. C. :-

1. Heard the learned Counsel for the Applicant.
2. Though the Respondents have been served, none appear for them when the matter is called out.

3. This Civil Application is filed for condonation of delay, for setting aside the order dated 17/06/2015 passed by the Registrar (Judicial-II) and for bringing on record the legal heir of the Respondent No.5 – Shri Kisan Dagadu Pardeshi who died on 18/04/2015.

4. The learned Counsel for the Applicant submits that as soon as they learned about the death of the Respondent No.5, they immediately preferred this Civil Application. He submits that to find out the names and addresses of the legal heirs, the Applicant took some time. He submitted that in the interest of justice, this Court be pleased to condone the delay and allow the present Civil Application. He submitted that the order dated 17/06/2015 passed by the Registrar (Judicial-II) be set aside and the matter be restored for hearing on merits.

5. Considering the submissions made by the learned Counsel for the Applicant and the averments made in the Civil Application, we are satisfied that the Applicant has made out case for allowing the Civil Application. The Civil Application is allowed in terms of prayer Clauses (a), (b) and (c) thereof, which read thus :

- A. *“(a) That the delay in filing the above Application may kindly be condoned.*
- (b) That the name of Respondent No.5-a may kindly be permitted to be brought on record as Legal Heir and Representative of Deceased Respondent No.5.*

(c) *That the Abatement Order dated 17.06.2015 passed by Registrar (Judicial-II), in respect of Respondent No.5 may kindly be set aside and fresh notice to the Legal Heir and Representative of the Respondent No.5 i.e. Respondent No.5-a may kindly be issued.”*

B. The Applicant to carry out amendment in the First Appeal and the pending Civil Applications within four weeks from today, failing which the Civil Application shall stand dismissed without further reference to this Court.

C. If the amendment is carried out within the stipulated period as stated above, the Applicant is directed to serve the added Respondents by private notice either by R.P.A.D. or by hand delivery with the copy of the First Appeal and all other proceedings and file Affidavit of service to that effect.

6. Civil Application is accordingly disposed of.

(SARANG V. KOTWAL, J.)

(K. K. TATED, J.)